

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS

3)
4 UNITED STATES OF AMERICA,)
5)
6 Plaintiff,) Criminal Action
7 v.) No. 13-10200-GAO
8)
9 DZHOKHAR A. TSARNAEV, also)
known as Jahar Tsarni,)
10 Defendant.)
11)

12 BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.
13 UNITED STATES DISTRICT JUDGE

14 **LOBBY CONFERENCE**

15 **SEALED TRANSCRIPT**

16 John J. Moakley United States Courthouse
17 Courtroom No. 9
18 One Courthouse Way
19 Boston, Massachusetts 02210
Tuesday, March 31, 2015
9:04 a.m.

20 Cheryl Dahlstrom, RMR, CRR
21 Official Court Reporter
22 John J. Moakley U.S. Courthouse
23 One Courthouse Way, Room 3510
Boston, Massachusetts 02210
(617) 737-8728

24 Mechanical Steno - Computer-Aided Transcript
25

1 APPEARANCES:

2 OFFICE OF THE UNITED STATES ATTORNEY

3 By: William D. Weinreb, Aloke Chakravarty and
4 Nadine Pellegrini, Assistant U.S. Attorneys
5 John Joseph Moakley Federal Courthouse

6 Suite 9200

7 Boston, Massachusetts 02210

8 - and -

9 UNITED STATES DEPARTMENT OF JUSTICE

10 By: Steven D. Mellin, Assistant U.S. Attorney
11 Capital Case Section

12 1331 F Street, N.W.

13 Washington, D.C. 20530

14 On Behalf of the Government

15 FEDERAL PUBLIC DEFENDER OFFICE

16 By: Miriam Conrad, William W. Fick and Timothy G.
17 Watkins, Federal Public Defenders

18 51 Sleeper Street

19 Fifth Floor

20 Boston, Massachusetts 02210

21 - and -

22 CLARKE & RICE, APC

23 By: Judy Clarke, Esq.

24 1010 Second Avenue

25 Suite 1800

San Diego, California 92101

- and -

LAW OFFICE OF DAVID I. BRUCK

By: David I. Bruck, Esq.

220 Sydney Lewis Hall

Lexington, Virginia 24450

On Behalf of the Defendant

1 (LOBBY CONFERENCE AS FOLLOWS:

2 THE COURT: We had left open what might be shown
3 today, so I just wanted to go over it with you.

4 Generally, I think I'll permit what Mr. Fick outlined
5 yesterday on the representation it will be targeted. So in
6 terms -- you know, I think some of these things were opened by
7 the government in its evidence about the hard drive on Laurel
8 Street, for example, so on and so forth. So I think some of
9 that.

08:05 10 There is -- what is your -- has anything changed?
11 Have you talked about the translation issue?

12 MR. FICK: The one that we want to come in today,
13 we've reached an agreed-upon version, so I think --

14 MR. CHAKRAVARTY: I haven't seen the revision but --

15 MR. FICK: We adopted everything you suggested, so
16 that was fine with us.

17 THE COURT: Okay. What about Ms. Graff?

18 MR. WEINRAB: She's here.

19 THE COURT: And will get on and off today?

08:06 20 MS. CLARKE: Sure. Did you introduce her to --

21 MR. WEINRAB: I think Mr. Watkins is out talking to
22 her right now.

23 THE COURT: All right.

24 MR. CHAKRAVARTY: Your Honor, one issue on the
25 computer exhibits, there's internet web history for which the

1 witness has created some what appear to be chalks, which are
2 kind of a graphic representation. I assume that they are going
3 to be chalks and not exhibits, versus the entire internet
4 history, which is some several thousand pages long, which I
5 think is more than what they need to show the particular items
6 which we concede are obviously relevant.

7 MR. FICK: You're talking about internet history on
8 the Sony?

9 MR. CHAKRAVARTY: On the Samsung particularly.

08:06 10 MR. FICK: On the Samsung, we intend -- the search
11 history --

12 THE COURT: The Samsung is Tamerlan?

13 MR. FICK: The Samsung is Tamerlan. I don't intend to
14 put in the entire internet history. For convenience and to
15 avoid sort of accusations of cherry picking, I would like to
16 put in the entire search history and then show the particular
17 examples I mentioned yesterday. The search history is only,
18 like, a hundred pages of a PDF, and I'll pull out a few things
19 to show him. I think that document, though, in its entirety, I
08:07 20 would like to introduce.

21 MR. CHAKRAVARTY: The issue there is then it goes to
22 -- the government understands the connection with component
23 parts or things that are related to crimes. The other things
24 that Tamerlan was doing on his computer seem to be irrelevant
25 and potentially go to the penalty phase, not to anything in

1 this phase.

2 THE COURT: Well, what's the point, I guess?

3 MR. FICK: I guess it's just a little bit more
4 cumbersome to introduce -- I can do pullouts of the individual
5 search terms that I discussed yesterday that are pertinent to
6 who did a particular piece of research about the crime. And we
7 could introduce those, I guess, at the end of everything and
8 put those in evidence as A, B, C subparts. It's a little bit
9 more cumbersome.

08:08 10 THE COURT: We did some of that yesterday.

11 MR. FICK: Okay.

12 THE COURT: I think it -- yeah, I think it -- to the
13 extent the jurors will pay attention to the whole history,
14 which I think is perhaps open to doubt --

15 MS. CLARKE: We just don't want to have --

16 THE COURT: -- and search through it themselves, I
17 think it probably would produce irrelevant and potentially 403
18 types of things. Eventually, if there's a second phase, you'll
19 have the chance to put in all the stuff about Tamerlan you
08:08 20 want. Don't quote me.

21 MR. WEINRAB: We move to strike that from the record.
22 (Laughter.)

23 MR. FICK: Understood. I guess, perhaps just even in
24 terms of presentation -- I don't know -- if the government has
25 no objection to -- rather than having to switch the screen for

1 every little individual search, I mean, I will only pull up to
2 show, you know, in legibly large type, the searches of the
3 nature we talked about, and then I can move, you know,
4 sub-pages into evidence but -- rather than taking it on and off
5 the screen if that's okay.

6 THE COURT: That's fine.

7 MR. WEINRAB: I think there was one unresolved issue,
8 which were the seven so-called arrest photos.

9 THE COURT: Yes. I'll permit those to be used.
08:09 10 They're cumulative to some degree, but seven is within the
11 range.

12 MS. CLARKE: The travel document.

13 MR. FICK: That was the other question. I would like
14 to move into evidence simply the public record travel document
15 right before I question Mr. Spencer just so it's in the record.

16 THE COURT: That's okay. You know -- anyway, so --
17 it's limited enough that I'll allow it.

18 MR. FICK: Thank you.

19 THE COURT: Who's first? Spencer?

08:09 20 MR. FICK: Yes.

21 . . . END OF LOBBY CONFERENCE.)

22

23

24

25

C E R T I F I C A T E

I, Cheryl Dahlstrom, RMR, CRR, and Official Reporter
of the United States District Court, do hereby certify that the
foregoing transcript constitutes, to the best of my skill and
ability, a true and accurate transcription of my stenotype
notes taken in the matter of Criminal Action No. 13-10200-GAO,
United States of America v. Dzhokhar A. Tsarnaev.

/s/ Cheryl Dahlstrom
CHERYL DAHLSTROM, RMR, CRR
Official Court Reporter

Date: October 26, 2015